



Appeal Decision

Site visit made on 22 January 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Appeal Ref: APP/G1630/W/23/3329145

Lunn Cottage, B4079 Aston Cross Ashchurch To County Boundary, Aston Cross, Tewkesbury, GL20 8LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Kingsdell Properties Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref is 21/01013/FUL.
 - The development proposed is described as "erection of 10 no. dwellings, garages, construction of internal estate road, formation of parking areas and gardens/amenity space."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 10 no. dwellings, garages, construction of internal estate road, formation of parking areas and gardens/amenity space at Lunn Cottage, B4079 Aston Cross Ashchurch To County Boundary, Aston Cross, Tewkesbury, GL20 8LP in accordance with the terms of the application, Ref 21/01013/FUL and subject to the conditions in the attached schedule..

Preliminary Matters

2. There is a planning obligation before me, the Council has confirmed they are necessary and reasonable, responding to the nature, type and scale of the proposed development, although, whilst affordable housing forms part of the obligation, they maintain an objection to the tenure. I have therefore taken it into account.
3. In their submissions the Council have withdrawn the third reason for refusal relating to education contributions. This is due to the planning obligation securing the relevant contributions now being completed. I have identified the main issues accordingly.

Main Issues

4. The main issues are;
 - Whether the site is a suitable location for the proposal having regard to local and national policy, and the accessibility of the site to services and facilities; and
 - Whether the proposed development makes adequate provision for affordable housing, with reference to both local and national planning policies.

Reasons

Location

5. Policy SP2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (2017) (JCS) sets out the distribution of new development and the settlement hierarchy. It states that development will be focused at Gloucester and Cheltenham, including urban extensions to these areas. To meet the needs of Tewkesbury Borough, the majority of housing is to be provided through existing commitments, development at Tewkesbury town in line with its role as a market town, smaller-scale development meeting local needs at Rural Service Centres and Service Villages, and sites covered by any Memoranda of Agreement.
6. JCS Policy SD10 states that housing development will be permitted at sites allocated for housing through the development plan, including strategic allocations and allocations in district and neighbourhood plans. On sites that are not allocated, this policy details the housing development will be permitted where it is for affordable housing on a rural exception site, is infilling within the existing built up areas of Gloucester, Cheltenham, Tewkesbury's town and villages; is brought forward through Community Rights to Build Orders or there are other specific exceptions/circumstances defined in district or neighbourhood.
7. Policy RES3 of the Tewkesbury Borough Plan (2022) (TBP) sets out the circumstances where planning permission for new housing outside settlement boundaries would be considered acceptable. This includes housing in accordance with Policy RES4 which requires that development be within or adjacent to the built up area and comply with a number of criterion including being of a proportionate scale and complements the form of the settlement.
8. At paragraph 3.32, the TBP states that for the purposes of JCS Policy SD10 and TBP Policy RES4 the built up area of a settlement is considered to be its built form as it existed at the start of the plan period and excludes gardens, paddocks, and other undeveloped land within the curtilage of buildings on the edge of settlement where the land relates more to the surrounding countryside than to the built up area. As the housing adjoining the appeal site to its west was constructed after the start of the plan period (2011) the appeal site would therefore not lie adjacent to the built up area.
9. The proposal is for ten dwellings, four of which are proposed to be affordable housing, would therefore be located outside any defined development boundary and, consequently, would be within an area of open countryside. It does not fall within any of the exceptions listed within JCS Policy SD10 and TBP Policies RES3 and RES4.
10. The nearest settlement to the appeal site is Aston Cross, which the appellant has identified has a limited range of services. Further to the west is Tewkesbury with a wider range of services and facilities. To access services and facilities in these settlements, the occupants of the proposed dwellings would have travel along the A46, including navigating a large motorway junction/roundabout to access Tewkesbury.
11. Whilst bus services operate in the area, I have not been provided with a timetable and so cannot be certain that the routes or timings would be viable

for the typical daily needs of future occupiers. Access to the train station would require walking in excess of a mile most along the A46. Whilst this road benefits from a pavement and lighting it is heavily trafficked, leading to a nearby junction to the M5 and Tewkesbury. Additionally in order to access the train station pedestrians would need to cross the A46. Whilst there is one crossing point near the appeal site no other crossing are provided before the pavement ends on the southern side of the road. Taking in to account the distance from the train station and other services and the heavily trafficked nature of the road, the use of the road for pedestrians and cyclists would therefore be unattractive, particularly outside of daylight hours or during inclement weather.

12. For the reasons above, essential services and facilities, and public transport, would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities.
13. As such, this site is not a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services and facilities. The proposal fails to accord with JCS Policies SP1, SP2 and SD10, TBP Policies RES1, RES2, RES3 and RES4 and Policy H1 of the Aschurch Rural Neighbourhood Development Plan (NDP). Together these policies seek to limit development in the open countryside and minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also fail to accord with the sustainability objectives of the National Planning Policy Framework.

Affordable Housing

14. JCS Policy SD12 requires that for new development affordable housing will be delivered on a sliding scale approach. Outside strategic allocation sites a minimum 40% contribution will be sought within the Tewkesbury Borough administrative boundary. The proposed development would provide ten dwellings, four of which would be affordable. As such a 40% contribution would be provided.
15. The Council's original concerns related to the lack of an obligation to secure the affordable housing. Since the planning obligation has been completed the Council's concerns relate to the tenure of the affordable housing.
16. The proposed development would provide two social rented dwellings and two discount for sale dwellings. The Council's Housing Strategy and Affordable Housing Officer was consulted on the application and confirmed that a housing mix of two no. two-bedroom dwellings, and two no. three-bedroom dwellings with a tenure split of two no. social rent and two no. affordable home ownership would be acceptable.
17. The Framework provides a definition of affordable housing which includes affordable housing for rent, starter homes, discount market sales housing and other affordable routes to home ownership. With regards to discounted market sales housing, these would be required to be sold at least 20% below local market value. The planning obligation completed for the appeal states that the discounted price for these homes would be a maximum of 80% of the open market value. As such, all four proposed affordable dwellings would meet the definition contained within the Framework.

18. It is the Council's view that there is a significant demand for social rented accommodation and that after accounting for rented provision, a targeted approach be taken to delivering affordable homes, with shared ownership housing being required to be met in the first instance. I have not been provided with any policy or evidence confirming this approach.
19. The appellant has provided an extract from the Gloucestershire Local Housing Needs Assessment (2020) which identifies that there is a need in the Tewkesbury area for 739 two and three-bedroom social rent dwellings and a need for 839 two and three-bedroom affordable home ownership dwellings. Whilst it is clear that there is a need for social rent units, there is also a need for discount for sale dwellings.
20. In the absence of any evidence from the Council on their approach to affordable housing tenure, the need identified by the appellant, along with the comments from the Council's Housing Strategy and Affordable Housing Officer leads me to conclude that the proposed tenure would be acceptable and meet an affordable housing need in the area.
21. Consequently, the proposed development would comply with JCS Policy SD10 which seems to ensure that new development delivers affordable housing. The proposal would also be in accordance with paragraph 60 of the Framework which seeks to meet as much of an area's identified housing need as possible, including an appropriate mix of housing types for the local community.

Planning Balance

22. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites, as such the tilted balance in paragraph 11d) of the Framework is engaged. The appeal scheme would assist in addressing the acute and persistent housing supply shortfall and would deliver affordable housing. I attach substantial weight to the needed housing benefits of the scheme. The appeal scheme would provide other benefits including a financial contribution to education which adds moderate weight in favour of the proposal. Together these benefits weigh heavily in favour of the proposal.
23. Consequently, overall, in my view, the adverse impacts arising from this development would not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole, which is a further material consideration in favour of the development. Therefore, there is no justified basis to resist the appeal proposal.

Conditions

24. Timing and plans conditions are necessary in the interests of clarity. In the interests of the character and appearance of the area, conditions are required to secure details of external materials and landscaping. Conditions are required to secure the closure of an existing access and management of internal roads in the interests of highway safety. In order to ensure that sustainable travel options are provided conditions regarding bike storage and resident pack are necessary. A condition requiring a noise mitigation, construction management plan and restricting hours of construction are necessary in order to safeguard the living conditions of residents during construction and for the life time of the development.

25. To ensure that adequate surface water drainage is provided conditions relating to drainage are necessary. appropriately addressed. A condition is required relating to fire hydrants to ensure an adequate supply of water is available for emergency use. In the interest of safeguarding biodiversity a lighting plan and landscape and ecological management plan are required. A condition relating to heat pumps is necessary in order to ensure renewable energy features are included within the dwellings.
26. The Council has suggested a condition relating to existing and finished floor levels. The appeal site is fairly flat and open with little topographical change. As such I see no reason that such a condition should be attached.
27. There is no need for detailed lists of matters to be included in the conditions in order to make them precise or enforceable. My conditions allow the parties to agree the content of the required schemes at the appropriate time of submission of details, based upon prevailing guidance and requirements then. I have made other minor revisions to the Council's suggested conditions in the interests of consistency and to ensure compliance with the Framework.

Conclusion

28. Overall, I find the scheme complies with the development plan as a whole. There are no material considerations to indicate that permission should be withheld. Accordingly, I conclude the appeal should be allowed, subject to the conditions set out below.

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Site location plan; Site layout plan; House Type 1 Floor Plans; House Type 2 Floor Plans; House Type 3 Floor Plans; House Type 3 (Plot 5) Floor Plans; House Type 1 Elevations; House Type 2 Elevations; House Type 3 Elevations; House Type 4 Elevations; Car Port Plots 5,6,9 &10 Elevations; Car Port Plot 7 Elevation; Car Port Plot 8 Elevation; Preliminary Ecological Elevation June 2021 (Revised 2022); Arboricultural Impact Assessment & Method Statement July 2021.
- 3) Notwithstanding the submitted details, no development shall take place until a comprehensive scheme for hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include details of all existing trees (including spread and species) and hedgerows on the land, and details of any to be retained, together with measures for their protection during the course of construction. The Landscaping Scheme shall also include details of all proposed planting, including species, density, and the height and spread of trees, and details of the design, position, height and materials of all the proposed boundary treatments including the acoustic fence.
- 4) If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.
- 5) Notwithstanding the submitted plans, no construction works of the dwellings hereby permitted shall commence until samples of the proposed external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Thereafter all such materials used in the development shall conform to the approved samples.
- 6) No development shall commence until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
- 7) No development shall commence on site until a scheme has been submitted to, and approved in writing by the Local Planning Authority, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be

occupied until the fire hydrant serving that property has been provided in accordance with the approved scheme.

- 8) The vehicular access hereby permitted shall not be brought into use until the existing vehicular access to the site (other than that intended to serve the development) has been permanently closed in accordance with details to be submitted to and agreed in writing beforehand by the Local Planning Authority.
- 9) The development hereby permitted shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.
- 10) The development hereby permitted shall not be occupied until the applicant has submitted to and had approval in writing from the Local Planning Authority a residential welcome pack promoting sustainable forms of access to the development. The pack shall be provided to each resident at the point of the first occupation of the dwelling.
- 11) In the event arrangements for the collection of refuse/recycling are not made through the Local Authority, no dwelling hereby approved shall be occupied until a refuse/recycling collection and management plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall thereafter be maintained for the lifetime of the development.
- 12) Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. Development shall take place only in accordance with the approved management plan.
- 13) During the construction phase (including demolition and preparatory groundworks), no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or dispatched from the site outside the following times: Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.
- 14) Prior to installation, details and technical specifications of the heat pumps proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. The heat pumps shall be implemented in accordance with the approved details before the development is first brought into use.
- 15) The applicant shall implement all the recommended noise mitigation measures as detailed in the Noise Assessment by Walnut Acoustics dated 25th November 2021 prior to occupation of each dwelling.
- 16) No dwelling shall be occupied until a SuDS management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker

and any other arrangements to secure the operation of the scheme throughout its lifetime, has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.

- 17) The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 18) No development shall take place until a Landscape and Ecology Management Plan (LEMP) expanding upon the measures set out in Section 4.6 the Preliminary Ecological Appraisal dated June 2021 (revised May 2022) has been submitted to and approved in writing by the Local Planning Authority. It should include a timeframe for implementation and completion of the measures. Development shall be carried out in accordance with the approved management plan and timeframe.
- 19) Notwithstanding the submitted details, prior to the commencement of development, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details. No additional external lighting shall be installed.